

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

BRYANT PORTERFIELD,)	
)	
Petitioner,)	
)	CIVIL ACTION NO.
v.)	2:17cv725-MHT
)	(WO)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

OPINION AND ORDER

On October 20, 2017, petitioner Bryant Porterfield filed a pro se pleading styled as a "Motion to Compel Specific Performance of an 11(c)(1)(C) Plea Agreement" in criminal case 2:09cr204-MHT, in which he asserts claims apparently challenging his conviction and sentence. This court ordered the motion to be filed in this new civil case. Through an order entered on October 30, 2017, the court informed Porterfield that his claims would have been properly presented in a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Additionally, in accordance with *Castro v. United States*, 540 U.S. 375

(2003), the court notified Porterfield of its intention to treat his filing as such a motion and directed Porterfield to advise the court if he wished (1) to proceed on his motion under 28 U.S.C. § 2255; (2) to amend his motion to assert additional claims under 28 U.S. § 2255; (3) or to withdraw his motion.

On November 9, 2017, Porterfield filed a response to the court's October 30 order in which he states that he is not seeking relief under § 2255 and asks the court to withdraw his motion. The court will grant Porterfield's request to withdraw his motion and will construe Porterfield's response as a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

Accordingly, it is the ORDER, JUDGMENT, and DECREE of the court that petitioner Bryant Porterfield's motion to withdraw (doc. no. 4) is treated as a notice of dismissal and that this action is dismissed without prejudice by operation of Federal Rule of Civil

Procedure 41.

The clerk of the court is DIRECTED to close this case.

DONE, this the 20th day of November, 2017.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE